

SENATE BILL No. 461

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-7-2-126.8; IC 12-15-35.5.

Synopsis: Access to mental health drugs in managed care. Prohibits a managed care contractor under the Medicaid program from requiring prior authorization for certain mental health drugs unless specified conditions exist. Allows a managed care contractor to limit the quantity of prescription drugs dispensed or the frequency of refills under specified circumstances.

Effective: Upon passage.

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January 13, 2004, read first time and referred to Committee on Health and Provider Services.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 461

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 12-7-2-126.8 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE UPON PASSAGE]: **Sec. 126.8. "Managed care**
4 **contractor", for purposes of IC 12-15-35.5, has the meaning set**
5 **forth in IC 12-15-35.5-2.3.**

6 SECTION 2. IC 12-15-35.5-2.3 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE UPON PASSAGE]: **Sec. 2.3. As used in this chapter,**
9 **"managed care contractor" means a person who contracts with the**
10 **office under IC 12-15-30 to provide managed care under the**
11 **Medicaid program.**

12 SECTION 3. IC 12-15-35.5-1, AS ADDED BY P.L.6-2002,
13 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 UPON PASSAGE]: Sec. 1. (a) ~~Except as provided in subsection (b);~~
15 This chapter applies to:

- 16 (1) the Medicaid program under this article; and
17 (2) the children's health insurance program under IC 12-17.6.

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(b) This chapter does not apply to a formulary or prior authorization program operated by a managed care organization under a program described in subsection (a):

SECTION 4. IC 12-15-35.5-2.5, AS AMENDED BY P.L.184-2003, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. As used in this chapter, "unrestricted access" means the ability of a recipient to obtain a prescribed drug without being subject to limits or preferences imposed ~~by the office or the board~~ for the purpose of cost savings except as provided under section 7 of this chapter.

SECTION 5. IC 12-15-35.5-3, AS ADDED BY P.L.6-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in subsection (b), the office **or a managed care contractor** may establish prior authorization requirements for drugs covered under a program described in ~~section 4(a)~~ **section 1** of this chapter.

(b) The office **or a managed care contractor** may not require prior authorization for the following single source or brand name multisource drugs:

(1) A drug that is classified as an antianxiety, antidepressant, or antipsychotic central nervous system drug in the most recent publication of Drug Facts and Comparisons (published by the Facts and Comparisons Division of J.B. Lippincott Company).

(2) A drug that, according to:

(A) the American Psychiatric Press Textbook of Psychopharmacy;

(B) Current Clinical Strategies for Psychiatry;

(C) Drug Facts and Comparisons; or

(D) a publication with a focus and content similar to the publications described in clauses (A) through (C);

is a cross-indicated drug for a central nervous system drug classification described in subdivision (1).

(3) A drug that is:

(A) classified in a central nervous system drug category or classification (according to Drug Facts and Comparisons) that is created after the effective date of this chapter; and

(B) prescribed for the treatment of a mental illness (as defined in the most recent publication of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders).

(c) Except as provided under section 7 of this chapter, a recipient enrolled in a program described in ~~section 4(a)~~ **section 1** of this chapter

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shall have unrestricted access to a drug described in subsection (b).

SECTION 6. IC 12-15-35.5-6, AS ADDED BY P.L.6-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The ~~office~~ **following** shall publish the decision to require prior authorization for a single source drug in a provider bulletin:

(1) **The office.**

(2) **A managed care contractor.**

(b) IC 12-15-13-6 applies to a provider bulletin described in subsection (a).

SECTION 7. IC 12-15-35.5-7, AS AMENDED BY P.L.184-2003, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Subject to subsection (b), the office **or a managed care contractor** may place limits on quantities dispensed or the frequency of refills for any covered drug for the purpose of:

- (1) preventing fraud, abuse, waste, overutilization, or inappropriate utilization; or
- (2) implementing a disease management program.

(b) Before implementing a limit described in subsection (a), the office **or a managed care contractor** shall:

- (1) consider quality of care and the best interests of Medicaid recipients;
- (2) seek the advice of the drug utilization review board, established by IC 12-15-35-19, at a public meeting of the board; and
- (3) publish a provider bulletin that complies with the requirements of IC 12-15-13-6.

(c) Subject to subsection (d), the board may establish and the office **or a managed care contractor** may implement a restriction on a drug described in section 3(b) of this chapter if:

- (1) the board determines that data provided by the office **or a managed care contractor** indicates that a situation described in IC 12-15-35-28(a)(8)(A) through IC 12-15-35-28(a)(8)(K) requires an intervention to:
 - (A) prevent fraud, abuse, waste, overutilization, or inappropriate utilization; or
 - (B) implement a disease management program;
- (2) the board approves and the office **or a managed care contractor** implements an educational intervention program for providers to address the situation; and
- (3) at least six (6) months after the implementation of the educational intervention program described in subdivision (2), the

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board determines that the situation requires further action.

(d) A restriction established under subsection (c) for any drug described in section 3(b) of this chapter:

(1) must comply with the procedures described in IC 12-15-35-35;

(2) may include requiring a recipient to be assigned to one (1) practitioner and one (1) pharmacy provider for purposes of receiving mental health medications;

(3) may not lessen the quality of care; and

(4) must be in the best interest of Medicaid recipients.

(e) Implementation of a restriction established under subsection (c) must provide that only the prescribing practitioner may authorize an override of the restriction.

(f) Before implementing a restriction established under subsection (c), the office **or a managed care contractor** shall publish a provider bulletin that complies with the requirements of IC 12-15-13-6.

(g) Subsections (c) through (f):

(1) apply only to drugs described in section 3(b) of this chapter; and

(2) do not apply to a restriction on a drug described in section 3(b) of this chapter that was approved by the board and implemented by the office before April 1, 2003.

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) IC 12-15-35.5-7(c) through IC 12-15-35.5-7(f), as amended by this act, apply to a restriction that was implemented by a managed care contractor (as defined in IC 12-15-35.5-2.3, as added by this act) on a drug described in IC 12-15-35.5-3(b), as amended by this act, before the effective date of this act.

(b) This SECTION expires December 31, 2009.

SECTION 9. An emergency is declared for this act.

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